

HJ 12, Urge Congress to Reform the Toxic Substances Control Act
Testimony of Representative Michele K. Reinhart, HD 97, Missoula
February 14, 2011

Good afternoon Mr. Chairman and members of the Committee,

I am Michele Reinhart, of House District 97 in Missoula and today I bring you House Joint Resolution 12. First, I will briefly explain:

- (1) Why I am bringing this resolution to you;
- (2) Why it is time for Congress to act, and
- (3) That there is nationwide bipartisan support for cracking down on cancer causing chemicals and urging Congressional action.

1. First, why am I bringing this resolution?

I am here today because toxic pollution harmed people and places dear to me. I'll give you three brief examples.

- First, the soil and groundwater of my hometown, Livingston, Montana is contaminated with chemical solvents, petroleum hydrocarbons, and asbestos, from the rail yards.
- Second, my former co-worker and former House Representative Sandy Weiss, experienced harm to her health and home from a chemical company's contamination in Lockwood, Montana.
- Third, my grandfather, died of asbestos related disease contracted from environmental exposure from living and working in Libby for decades.

If the Toxic Substances Control Act had any meaningful teeth in it, the law could have prevented the tragedy at Libby.

Also, a college biology class experiment that I did back in the day made a big impression on me. We fed crickets instant mashed potatoes laced with insecticide for weeks. Then we ground up the crickets and tested their remains to determine how much of the insecticide had remained in their fatty tissues. We found that the crickets stored a very high amount of the toxins in their bodies. Wouldn't you be curious to know how much toxins were contained in your body and your fatty tissues from your exposure to toxic substances in our daily environment, the products we use at home or at work, that we apply to our skin, or that we ingest from our air and water? Shouldn't we have the right to know what is in the products we purchase?

- Currently, the U.S. government and manufacturers are not providing this data to consumers. HealthyStuff.org 2009 tested nearly 700 toys and children's products. The test data represents the largest publicly available database of toxic chemicals in toys. .
- **High levels of lead were found in a number of products:** Barbie Bike Flair Accessory Kit, Dora the Explorer Activity Tote, Kids Poncho from WalMart, MSY Shoes by Faded Glory, Reversible Croco Belt by Cherokee and The Kids Source Magenta/Orange Open-toed shoes.
- HealthyStuff.org tested over 100 women's plastic handbags and detected lead in over 75% of the bags analyzed. **Over half of the plastic handbags contain >1,000 ppm lead.**
- To date, the EPA has only required testing on about 200 of the more than 80,000 chemicals that have been on the market since the law first passed in 1976. Meanwhile, the rates of asthma, diabetes, childhood cancers, infertility, and learning and behavior problems, conditions that have been linked in part to environmental exposures, have gone up. Clearly, the government has little authority to protect people from hazardous chemicals and the law is not working as intended.

2. It is time for Congress to update the Toxic Substances Control Act.

This federal law has not been updated in 34 years. We need Congress to act on chemicals we know are dangerous. Even the American Chemistry Council, an industry group representing Chemical Companies, agrees that it is time to update this law and focus on consumer safety.

Cal Dooley, CEO of the American Chemistry Council, testified this morning before the Subcommittee on Superfund, Toxics and Environmental Health of the Senate Committee on Environment and Public Works. Among the key points of his testimony:

- The American Chemistry Council and our member companies support modernization of the Toxic Substances Control Act. It is time to update and refresh our 35-year-old chemical-management system.
- The question is not whether the business of chemistry will identify and develop solutions to meet these challenges -- have no doubt that we will. The real question is where these innovations will occur -- here or in places like China, where patent applications in recent years have surpassed those of the United States.
- Safety is the top priority for ACC and its member companies. If we didn't believe our products were already safe for their intended uses, we wouldn't be making them. In spite of that fact, there is a fundamental lack of confidence in our nation's chemicals-management system. It has led to the frequent spread of misinformation, unnecessary product deselection by consumers and retailers, litigation, and ill-conceived state and local laws to regulate or ban chemicals.
- A modern TSCA must enable innovation; create greater certainty so businesses have the confidence to expand and hire; provide scientifically sound answers about chemical safety and how to manage risks; operate efficiently so new products can be brought to market in a timeframe global commerce demands; and inspire confidence among the public that their children, their homes and their environment are being protected.

Here is a sample of three things Congress could do to modernize this law:

- Ensure all existing and new chemicals are not harmful to human health, including the most vulnerable populations like kids and pregnant women;
- Require immediate action to reduce or eliminate the worst chemicals, including chemicals that build up in the body and pose the most risk to humans like mercury, lead, and asbestos; and
- Boost American business and jobs by making it easier for safer chemicals to enter the market and invest in green chemistry research to find safer alternatives to harmful chemicals.

3. Many states are taking action. I want you to know that you are in good company with many Republicans across the nation who have supported tougher laws cracking down on toxic cancer causing substances.

- 18 states have already passed 71 chemical safety laws in the last eight years by an overwhelming, bipartisan margin.
- **Tough state laws on toxic chemicals also received broad bipartisan support.** Of the votes cast, about 99% of Democrats and 73% of Republicans favored stronger protections of children's health and the environment from dangerous chemicals, with equal support from governors of each party.
- **The policy actions taken by the states advance many of the same chemical policy reforms proposed in Congress.** Both the new state chemical laws and proposed federal legislation (H.R. 5820 and S. 3209) require manufacturers to provide information on chemicals, mandate quick action on the most dangerous chemicals, and promote safer alternatives and greener chemistry.
- **Increasingly, the states have passed new laws to phase out chemicals that threaten children's health and restrict toxic chemicals in consumer products.** In the last eight years, both the number of state chemical laws and the number of states passing toxic chemical reforms have tripled.

- More than 8,000 (or 89%) of the more than 9,000 roll-call votes cast by state legislators favored tighter toxic chemical regulation, a margin of support greater than 8–1.

Here is a sampling of Republican Quotes from the Report on State Chemical Policy Reform:

- "Voting against this bill is like voting against brakes on a school bus," said Bob Sump, Washington State Representative (R), House floor speech on final passage of the Children's Safe Products Act, February 18, 2008
- "As a cancer survivor, I know first-hand the physical, emotional and financial toll these deadly diseases can take on families across the state . . . I support the Kid-Safe Products Act because it will help prevent these devastating diseases — and that's good for our families and our pocketbooks." Meredith Strang Burgess, Maine State Representative (R), from a civic engagement mailer by the Alliance for a Clean and Healthy Maine, 2010
- "I'm pleased the Connecticut Legislature has worked in a bipartisan way to pass laws that provide necessary and timely solutions to the problems of toxic chemicals in our daily environment." John McKinney, Republican Minority Leader, Connecticut State Senate, October 2010

I have also attached to my testimony the policy resolution in support of TSCA reform from NCSL. With that Mr. Chairman, I stand aside, look forward to a good hearing, and reserve the right to close.

The National Conference of State Legislatures unanimously adopted a resolution in July 2009 that articulated principles for reform of the TSCA and called on Congress to act to update the law.

<http://www.ncsl.org/default.aspx?TabID=773&tabs=855,23,667#855>

Federal Chemical Policy Reform

The Toxic Substances Control Act (TSCA) of 1976 provides the US EPA with authority to require reporting, record-keeping and safety testing of chemical substances and/or mixtures. TSCA also gives EPA the power to restrict the use of chemicals. Certain substances are generally excluded from TSCA, including food, drugs, cosmetics and pesticides.

Since its enactment, increasing evidence linking toxic chemicals to adverse human health effects has eroded the public's confidence in the safety of consumer products containing toxic chemicals, prompting many state legislatures to act. In the absence of Federal action, states have passed legislation to regulate individual chemicals. States have also begun to develop comprehensive state chemical policies that aim to establish broad and permanent frameworks to systematically prioritize chemicals of concern, close data gaps on those chemicals and restrict their uses in those states. Appropriate modifications to federal law will help enhance public confidence and the efforts of the state governments.

Current federal chemical policy has not kept up with modern science. The science of testing chemicals and understanding their health or environmental effects has improved considerably since TSCA was enacted. NCSL believes TSCA should be updated to reflect the advances in science and technology to better evaluate and regulate chemicals.

TSCA's failures have caused the United States to fall behind our trading partners in the quality of our public health and environmental standards, and these failures now threaten the competitiveness of our manufactured products in a world market that increasingly demands safer chemicals and products.

Modernizing TSCA can help assure that we protect the nation's interest in a strong American business of chemistry – and assure that the United States produces products that save lives, protect our children, make our economy more energy efficient, and reduce greenhouse gas emissions.

NCSL encourages Congress to reform and modernize TSCA. At a minimum, NCSL believes proposed TSCA reform legislation should embody these policy elements:

Act on the Harmful Chemicals First and Promote Safer Alternatives

Persistent, bioaccumulative and toxic chemicals (PBTs) are uniquely dangerous and should be phased out of commerce except for critical uses that lack viable alternatives. Exposure to other toxic chemicals, like formaldehyde, that have already been extensively studied should be reduced to the maximum extent feasible. Green chemistry research should be expanded, and safer chemicals favored over those with known health hazards.

Ensure Broad Access to Mandatory Safety Data on All Chemicals

Chemical manufacturers should bear the burden of proof of safety of their products, and should be required to provide full information on the health hazards associated with their chemicals, how they are used, and the ways that the public or workers could be exposed. The public, workers, and businesses should have full access to such information.

Ensure Environmental Justice

Effective reform should contribute substantially to reducing the disproportionate burden of toxic chemical exposure placed on low-income people, people of color and indigenous communities.

Protect All People, and Vulnerable Groups, Using the Best Science

All chemicals should be assessed against a health standard that protects all people and the environment, especially the most vulnerable subpopulations, including children, workers, and pregnant women. EPA should adopt the recommendations of the National Academy of Sciences for reforming risk assessment. Biomonitoring by the Centers for Disease Control and Prevention should be significantly expanded and used by EPA to assess pollution in people.

States Rights

State governments play a critical role in environmental regulation. For nearly all federal environmental statutes, there are provisions to extend the reach of the federal government by delegation of program authority and/or provision of federal grants to support state implementation of environmental requirements in lieu of or in addition to the federal requirements. Any reform of TSCA should preserve state rights to manage chemicals, and resources should be provided for state level implementation.



Testimony of
The Honorable Cal Dooley
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Before the
Subcommittee on Superfund, Toxics and Environmental Health of the
Senate Committee on Environment and Public Works

"Assessing the Effectiveness of U.S. Chemical Safety Laws"

February 3, 2011

It's Time to Modernize TSCA

The American Chemistry Council and our member companies support modernization of the Toxic Substances Control Act. It is time to update and refresh our 35 year-old chemical management system.

Last week in the State of the Union, President Obama laid out an agenda to ensure that America can "win the future," in his words. We couldn't agree more that we need strong, sound, efficient policies that will not get in the way of the ability of American companies to innovate and create jobs.

This is particularly important for an industry like ours. Chemistry is the source of many of the new technologies that will help create jobs in the future, drive economic growth and achieve the goals articulated by the President including clean energy; improved infrastructure; efficient transportation options; medical advancements that bring down the cost of health care; and even a strong defense.

And we employ nearly 800,000 people directly in high-paying, high-skill jobs. These are the kind of jobs that not only put food on the table, but boost consumer spending, send kids to college, allow families to own homes, and save for retirement.

The business of chemistry is vital not only to achieving national goals, but also to meeting the needs of a growing and changing world. The earth's population is expected to reach approximately 9 billion people in the coming decades. The greatest growth will occur in the developing world, and with it will come the continued explosion of a middle class in those nations. All these people will require food, clean water, energy supplies, and medicines. As standards of living improve, there will be greater demand for automobiles, electronics, appliances and other modern conveniences that Americans now take for granted. It is only through the innovation and products of chemistry that the world will be able to meet those needs in a sustainable way.

The question is not whether the business of chemistry will identify and develop solutions to meet these challenges – have no doubt that we will. The real question is where these innovations will occur – here or in places like China, where patent applications in recent years have surpassed those of the United States.

That is why the issue of TSCA modernization is so critical and the stakes are so high. The continued competitiveness of America's chemical manufacturers will rely in part on our ability to craft a modern regulatory program that

- inspires confidence among the public that their children, their homes and their environment are being protected.

TSCA Modernization Done Right is Good for Everyone

Simply stated, TSCA modernization done right is good for consumers, good for jobs and good for American businesses.

Before going further, it's important to say that safety is the top priority for ACC and its member companies. If we didn't believe our products were already safe for their intended uses, we wouldn't be making them.

In spite of that fact, there is a fundamental lack of confidence in our nation's chemicals management system. It has led to the frequent spread of misinformation, unnecessary product de-selection by consumers and retailers, litigation, and ill-conceived state and local laws to regulate or ban chemicals. Taken together these factors have created an uncertain business environment for the American chemistry industry and our value chain partners.

In practice, multiple state and local laws regarding chemicals create confusion among manufacturers, retailers and consumers, hamper the development of new products, close off markets, and ultimately prevent business growth and new hiring, all without significantly improving public safety.

America's chemical manufacturers are truly national and global in nature. The engineered materials we produce can change hands numerous times and travel from state to state, or country to country, as they are incorporated into other materials and end products. There is little question that the chemistry industry engages in the kind of interstate commerce that our founders gave Congress, rather than the states, the authority to regulate.

The business of chemistry is also highly complex. It is a 21st century industry founded on science, engineering and continuous innovation; it's what brings us our medicines, cell phones, computers, hybrid automobiles, and all the other essential products of today's world. This is not a job for state or local governments that understandably lack the scientific expertise or resources to make well-informed regulatory decisions.

Only by creating a scientifically-disciplined, efficient and focused federal chemicals management system can we ensure a uniform national market, provide American businesses the certainty they need to justify new investment and hiring here rather than nations like China and India, and give state governments and consumers confidence.

ACC has been joined by a broad coalition of our value chain partners including manufacturers

What a Modernized TSCA Should Look Like

Around eighteen months ago, ACC released ten principles for modernization which I have submitted for the record.

These principles provide the right foundation upon which Congress can define a modern chemicals management program that leverages what we already know, focuses time and resources on the highest priority chemicals and deploys a cost-effective program that will reach conclusions, manage risks, and get information to the public and industry in a timely way.

A modern TSCA must be based on today's technology and should be crafted to evolve as new technologies and developments in science emerge. It should incorporate scientific objectivity. It must prioritize so we identify data and information needs, meet them and assess risks based on what a chemical is actually used for. It must operate efficiently so that new chemical products can be reviewed and brought to the market in a time frame that our global customers demand. It must protect intellectual property so we don't enable piracy, but provide for greater transparency so consumers, policymakers and industry can make sound decisions.

We must also learn from what's working and not working in Canada and the EU, which have both implemented new chemicals management regimes in recent years. The U.S. always has been and must remain the global leader by updating TSCA to be the first-in-class system that other countries will want to emulate. As part of this, we must acknowledge there are important elements of the current TSCA program that have stood the test of time and work well such as the process to evaluate and approve new chemicals.

We believe implementing these kinds of enhancements that balance regulation with job creation and innovation is exactly the kind of regulatory reform that is being pursued by the President and this Congress.

Conclusion

Congress has the opportunity to define a modernized TSCA program that if done right, will enable a future where consumers can feel confident; where our chemicals management program is more efficient and focused; where the government spends less over time, but gets more value; where American businesses know what's ahead and can plan, invest and hire; and where states and cities are no longer motivated to act on their own leading to a disjointed and inefficient regulatory patchwork that disrupts national commerce and hampers our ability to compete in the global marketplace.

We hope to work together with stakeholders and Congress to update TSCA to be balanced, protect jobs, foster innovation and reassert our nation's leadership not only in developing ideas,

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Toxic Substances Control Act
(TSCA)

ACC believes in a more effective chemical management system that ensures consumer safety while preserving America's role as the world's leading innovator and creator of safe and environmentally sound technologies and products. Any effort to modernize our nation's chemical management system must start with consumer safety as its highest priority.

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ACC CEO Reaffirms Support for Updating
Toxic Substances Control Act Before
Congress

In testimony February 3, 2011 before the Subcommittee on Superfund, Toxics and Environmental Health of the Senate Committee on Environment and Public Works, ACC President and CEO Cal Dooley reiterated the Council's desire to work with Congress and stakeholders to update the Toxic Substances Control Act. » view statement | » view testimony

Cal Dooley Discusses ACC's Priority Issues, Reiterates Support for TSCA Modernization
During a conference call with reporters, ACC's President and CEO discussed top issues for ACC's members for 2011. Dooley expressed ACC's



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ACC CEO Reaffirms Support for Updating
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ACC: Chemicals Management Reform Can Be
a Reality [7/29/2010]

Toxic Chemicals Safety Act Reflects Next
Step Toward Modernizing Nation's Safety
Regulations [7/22/2010]

ACC Response to CNN Story on Chemical
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 commitment to work with bipartisan leaders in
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 TSCA modernization that is consistent with ACC's
 principles for updating TSCA and that will drive
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**Chemicals Management Reform Can Be a Reality:
 H.R. 5820—The Toxic Chemicals Safety Act of 2010**
 In testimony before a key House subcommittee, Cal
 Dooley urged Congress to fix legislation to reform
 TSCA to ensure that it enhances public safety,
 preserves the ability of industry to innovate, and
 protects American jobs. » view news release | » view
 Dooley's testimony

**Cal Dooley Testified at a U.S. House Subcommittee
 on Commerce, Trade and Consumer Protection on
 "Revisiting the Toxic Substances Control Act of
 1976" » view webcast | » view Cal Dooley's testimony**

Webcast: The Future of U.S. Chemicals Policy
 Organizations representing chemical manufacturers,
 environmental and public health advocates,
 environment justice leaders and consumer product
 goods companies hosted a historic conference to
 explore fundamental changes to the U.S. chemical
 policy. » view agenda.

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Resources:

- ACC's 10 Principles for Modernizing TSCA
- ACC's Issue Brief on Chemical Management
- Chemical Management Questions & Answers
- Chemical and Products Industries Respond to
 "Safe Chemicals" Bill [4/15/2010]
- ACC Letter for Reform of TSCA [3/8/2010]
- TSCA 101: An Overview
- ACC Statement for Senate EPW Hearing
 [2/4/2010]
- Letter from Cal Dooley Regarding Prioritizing
 Chemicals for Safety Determination
 [11/16/2009]
- Testimony of Cal Dooley on Behalf of ACC
 Before the Subcommittee on Commerce, Trade
 and Consumer Protection [2/26/2009]
- Letter from Cal Dooley to Chairman Bobby
 Rush on TSCA Hearing [2/25/2009]

Media Coverage:

- LTE: Update the Toxic Substances Law, But Do
 It Right [*Las Vegas Sun*, 8/7/2010]
- Manufacturers Wrestle With Chemicals
 Regulation [*IndustryWeek*, 7/30/2010]
- Chemical Nation: It's Time for an Effective
 Federal Law on Toxics [*Pittsburgh Post-
 Gazette*, 7/29/2010]
- ACC's Dooley Pans Proposed Chemical Safety
 Standard [*PlasticsNews.com*, 7/29/2010]
- EPA Urges House To Pass Bill On Toxic
 Substances Control [*Dow Jones*, 7/29/2010]
- ACC: TSCA Discussion is a "Step Toward
 Modernization" [*Chemical & Engineering News*,
 7/23/2010]

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[Summary of TSCA](#)

<http://www.epa.gov/lawsregs/laws/tsca.html>

Last updated on Thursday, January 13, 2011

Summary of the Toxic Substances Control Act

15 U.S.C. §2601 et seq. (1976)

The Toxic Substances Control Act of 1976 provides EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics and pesticides.

TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon and lead-based paint.

Various sections of TSCA provide authority to:

- Require, under Section 5, pre-manufacture notification for "new chemical substances" before manufacture
- Require, under Section 4, testing of chemicals by manufacturers, importers, and processors where risks or exposures of concern are found
- Issue Significant New Use Rules (SNURs), under Section 5, when it identifies a "significant new use" that could result in exposures to, or releases of, a substance of concern.
- Maintain the TSCA Inventory, under Section 8, which contains more than 83,000 chemicals. As new chemicals are commercially manufactured or imported, they are placed on the list.
- Require those importing or exporting chemicals, under Sections 12(b) and 13, to comply with certification reporting and/or other requirements.
- Require, under Section 8, reporting and recordkeeping by persons who manufacture, import, process, and/or distribute chemical substances in commerce.
- Require, under Section 8(e), that any person who manufactures (including imports), processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment to immediately inform EPA, except where EPA has been adequately informed of such information.

EPA screens all TSCA b§8(e) submissions as well as voluntary "For Your Information" (FYI) submissions. The

Core Principles for Chemical Management

On September 29, 2009, EPA Administrator Lisa Jackson released a set of core principles to strengthen U.S. chemical management laws.

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latter are not required by law, but are submitted by industry and public interest groups for a variety of reasons.

Committees

- Significant Guidance Documents

See also:

- [Online version of TSCA, from the Government Printing Office](#)
- [PDF of TSCA, from U.S. Senate](#) (106 pp, 263K, [About PDF](#))

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